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 SAXON MORTGAGE SERVICES, INC.

**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA**

MARIE GAUDIN, individually, and on
 behalf of others similarly situated,

Plaintiffs,

vs.

SAXON MORTGAGE SERVICES, INC.,
 a Texas corporation,

Defendant.

Case No.: 3:11-cv-01663-JST

**DEFENDANT'S ADMINISTRATIVE
 MOTION TO FILE UNDER SEAL**

Date: June 20, 2013
 Time: 2:00 p.m.
 Department: Courtroom 9
 Judge: Hon. Jon S. Tigar

Pursuant to the Stipulated Protective Order and Addendum entered by the Court on May 9 and May 10, 2012, respectively (the "Protective Order"), and in connection with its Memorandum of Law in Opposition to Plaintiff's Motion for Class Certification and Appointment of Class Counsel, Defendant Saxon Mortgage Services, Inc. ("Saxon") brings this Administrative Motion to File Under Seal ("Motion to Seal") documents designated confidential by Saxon and Plaintiff, as follows:

1. Saxon has reviewed and complied with the Standing Order Governing Administrative Motions to File Under Seal effective April 8, 2013 (“Standing Order”).
2. Saxon has reviewed and complied with Civil Local Rule 79-5 and General Order 62.
3. Saxon identifies the documents or portions of documents to be sealed or redacted as follows:
 - a. The following exhibits, designated confidential by Saxon pursuant to the Protective Order, as described in the Declaration of Veronica Monsivais in Support of Saxon’s Administrative Motion to File Under Seal in Connection with Saxon’s Opposition to Plaintiff’s Motion for Class Certification (the “Monsivais Sealing Declaration”):

Abou-Rahme Decl. ¹ Ex. 1 (excerpts)	Page 123 (lines 6 and 15) from the transcript of the deposition of Saxon’s Rule 30(b)(6) Designee Tim Lightfoot.
Monsivais Cert. Decl. ² Ex. 2	Internal Saxon process flow manual (SAXON_0001740-1743).
Monsivais Cert. Decl. Ex. 3	Screen shot from Saxon’s proprietary Tri-Calc servicing system (SAXON_0002217).
Monsivais Cert. Decl. Ex. 4	Log from Saxon’s FiServ system reflecting confidential communications between Saxon and Ms. Gaudin and notes regarding Saxon’s review of Ms. Gaudin’s loan (SAXON_0000086-0000134).
Monsivais Cert. Decl. Ex. 5	Screen shot from Saxon’s proprietary Tri-Calc servicing system (SAXON_0002218).
Monsivais Cert. Decl. Ex. 6	Transcript of data from Plaintiff’s 2007 tax return (SAXON_0000441-445).

- b. Portions of paragraphs 19, 20, 24, 25, and 26 of the Monsivais Certification Declaration (which are derivative of the confidential documents referenced therein).

¹ “Abou-Rahme Decl.” refers to the Declaration of Laila Abou-Rahme, dated May 30, 2013, in Opposition to Plaintiff’s Motion for Class Certification and Appointment of Class Counsel.

² “Monsivais Cert. Decl.” or “Monsivais Certification Declaration” refers to the Declaration of Veronica Monsivais, dated May 30, 2013, in Opposition to Plaintiff’s Motion for Class Certification and Appointment of Class Counsel.

c. Derivative parts (portions of pages 6, 7, 8, 9, and 13) of Saxon's Memorandum of Law in Opposition to Plaintiff's Motion for Class Certification and Appointment of Class Counsel, as indicated in the redacted version of that document.

d. The following exhibits, designated confidential by Plaintiff pursuant to the Protective Order, to the Declaration of Laila Abou-Rahme in Opposition to Plaintiff's Motion for Class Certification and Appointment of Class Counsel:

Abou-Rahme Decl. Ex. 4	Correspondence from Plaintiff to Saxon, dated March 25, 2009 (Gaudin 0000142-0000166).
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4. The undersigned hereby certifies that this motion, the documents to be sealed or redacted, the redacted versions, and all other documents accompanying this motion have been served on all parties.

BACKGROUND

For purposes of this Motion to Seal, Saxon has withdrawn its confidentiality designations with respect to much of the confidential discovery material it now proposes to file under seal. However, as explained in this Motion to Seal and the accompanying Monsivais Sealing Declaration, certain portions of the confidential discovery material should remain sealed and not disclosed to the public.

As described above, Saxon hereby submits to the Court copies of certain redacted or partially redacted documents in support of its Opposition to Plaintiff's Motion for Class Certification and Appointment of Class Counsel. All of these redacted portions consist of or reflect confidential discovery material exchanged pursuant to the Protective Order.

As an initial matter, Saxon recognizes that the strong presumption of access to judicial records encourages the public filing of discovery material when appropriate. Kamakana v. City and County of Honolulu, 447 F.3d 1172, 1178-82 (9th Cir. 2006). Accordingly, for purposes of

1 the Motion to Seal, Saxon has withdrawn its confidentiality designations with respect to most
2 confidential discovery material reflected in Saxon's opposition papers.

3 ARGUMENT

4 Pursuant to Civil Local Rule 79-5(a),

5 A sealing order may issue only upon a request that establishes that the
6 document, or portions thereof is privileged or protectable as a trade secret
7 or otherwise entitled to protection under the law The request must be
8 narrowly tailored to seek sealing only of sealable material

9 Local Civil R. 79-5(a). Pursuant to this Court's Standing Order, a declaration by the party
10 designating the documents as confidential must rebut the "strong presumption of access to
11 judicial records" under either the "good cause" or "compelling reasons" standard, whichever is
12 appropriate. Standing Order, at p. 2 (quoting Kamakana, 447 F.3d at 1178-82).

13 In these circumstances, the "good cause" standard applies. Although the Ninth Circuit
14 has not addressed the issue, the "vast majority" of courts in this Circuit, including this Court,
15 apply the "good cause" standard to motions for class certification because they are non-
16 dispositive motions. In re High-Tech Employee Antitrust Litig., No. 11-cv-02509, 2013 WL
17 163779, at *2 n.1 (N.D. Cal. Jan. 15, 2013); see Gaudin v. Saxon Mortg. Servs. Inc., No. 11-cv-
18 1663, ECF No. 80 (N.D. Cal. Apr. 25, 2013).

19 As demonstrated in the accompanying Monsivais Sealing Declaration, good cause exists
20 for maintaining under seal the relatively small portions of the redacted material referenced
21 therein and noted above.
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1 Dated: May 30, 2013

Respectfully Submitted,

2 BINGHAM MCCUTCHEN LLP

3 /s/ Laila Abou-Rahme

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